

EXHIBIT “A”

1 **MEMORANDUM OF POINTS AND AUTHORITIES**
 2 **IN SUPPORT OF RECEIVER'S MOTION FOR APPROVAL OF (1) LETTER**
 3 **AGREEMENT BETWEEN RECEIVER AND CMA; (2) CMA ACCOUNTING;**
 4 **(3) PAYMENTS TO EMPLOYEES; (4) PAYMENTS TO UNDISPUTED GENERAL**
 5 **UNSECURED CREDITORS; (5) ASSIGNMENT OF CLAIMS BY CMA; (6) PAYMENT**
 6 **OF REMAINING FUNDS BY CMA TO RECEIVER; AND (7) INDEMNITY BY**
 7 **RECEIVER OF CMA IN CERTAIN CASES**

8 **I. INTRODUCTION**

9 Receiver Dennis M. Murphy (the "Receiver") seeks an order of the court approving a
 10 series of transactions that will allow Credit Managers Association of California, a California
 11 corporation, doing business as CMA Business Credit Services ("CMA"), assignee of Flex Trim
 12 California, Inc. ("FTC") and Flex Trim North Carolina, Inc. ("FTNC", and, collectively with
 13 FTC, the "Flex Trim Entities") to pay the undisputed claims arising from the assignments for the
 14 benefit of creditors of the Flex Trim Entities and then to pay the remaining amounts – and assign
 15 any remaining claims – to the Receiver. The Receiver believes that these transactions, if
 16 approved, will allow CMA and its professionals to complete their work with respect to the Flex
 17 Trim Entities, and will also allow any remaining disputes relating to the proceeds of the
 18 assignments to be resolved efficiently as part of the marital dissolution proceedings herein. In
 19 addition, and by design of the Receiver and CMA, this motion affords the court, Petitioner Allen
 20 A. Jones and Respondent Mary Kay Jones the opportunity to review CMA's accounting of its
 21 efforts to date with respect to the affairs of the Flex Trim Entities, before any payments are made
 22 by CMA to creditors.

23 Specifically, by this motion, the Receiver requests that the court approve the following:
 24

- 25 1. A letter agreement dated November 21, 2007 between the Receiver and CMA (the
 26 "Letter Agreement") (a copy of the Letter Agreement, which provides that it is subject to the
 27 approval of the court herein, is attached to the accompanying Declaration of Dennis M. Murphy
 ("Murphy Declaration") as Exhibit "A");

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1 2. CMA's accounting of the assignments of the Flex Trim Entities, including CMA's
 2 payments of (a) attorney's fees and costs; (b) outside agent fees; and (c) CMA's administrative
 3 fees, as permitted by California law (a copy of CMA's accounting is attached as Exhibit "I" to
 4 the accompanying Declaration of Michael L. Joncich (the "Joncich Declaration"));

5 3. The payment in full of all employee claims;

6 4. The payment in full of all "undisputed" general unsecured creditors which have
 7 filed claims;

8 5. The assignment by CMA to the Receiver of certain litigation claims CMA may
 9 hold by reason of the assignments;

10 6. After the deduction of a reserve for certain items in the amount of \$40,553.49, the
 11 payment of all remaining funds held by CMA to the Receiver to be held in a segregated account
 12 pending further order of the court;

13 7. The indemnity by the Receiver of CMA, in certain instances, and up to a specified
 14 cap, as set forth in the Letter Agreement.

15 This motion is being heard on shortened time pursuant to the court's order dated
 16 December 11, 2007. CMA is currently holding approximately \$1,526,870.15 in free-and-clear
 17 cash. The Receiver believes that the relief sought herein is reasonable under the circumstances,
 18 is in the best interests of the marital estate, and is the most efficient manner in which to proceed
 19 in light of the funds CMA holds and the current posture of matters concerning the assignments.

20 II. FACTUAL BACKGROUND

21 A. The Flex Trim Entities and Tahuus.

22 Starting in the late 1980's, Mr. Jones built a construction supply business which
 23 employed proprietary technology and know-how to make and sell custom curved moldings made
 24 of resin (essentially, a specialized type of plastic) to the construction industry, including
 25 especially the residential home building industry. Ultimately, the business operated in California
 26 and the Southeast United States, through the Flex Trim Entities.

27 It is undisputed (for all purposes, the Receiver believes) that: (a) FTC is 100% owned by
 28 Mr. Jones, and (b) FTNC is 100% owned by Tahuus, LLC, a Nevada limited liability company

1 ("Tahus"), of which Mr. Jones is the sole member. Thus, it is undisputed that the stock of, or the
 2 beneficial interests in, the Flex Trim Entities is a marital asset subject to the jurisdiction of this
 3 court. (See Murphy Declaration, *infra*, para. 4.)

4 B. The Jones Dissolution and the Appointment of the Receiver.

5 On April 3, 2002, Mr. Jones commenced the instant action. After almost five years of
 6 proceedings, and frustrated with what she asserted to be the obfuscation and failure to fully
 7 inform the court about the scope of his business affairs, on April 5, 2007, Mrs. Jones moved for
 8 the appointment of a receiver over certain entities in which Mr. Jones had a partial or complete
 9 interest. In conjunction with her motion, Mrs. Jones submitted three highly detailed declarations,
 10 including numerous supporting exhibits, namely: (1) the Declaration of Mary Kay Jones; (2) the
 11 Declaration of Richard A. Granowitz; and (3) the Declaration of Charlotte Reith. In further
 12 support for her motion, on May 10, 2007, Mrs. Jones filed the Supplemental Declaration of
 13 Richard A. Granowitz and the Supplemental Declaration of Charlotte K. Reith, CPA.

14 On May 11, 2007, after considering the evidence put forward by Mrs. Jones, and the
 15 opposition thereto filed by Mr. Jones, which included his Responsive Declaration to OSC or
 16 Notice of Motion, the Declaration of Allen A. Jones and the Declaration of Marvin M. Reiter,
 17 CPA, the court appointed the Receiver with power over a number of entities, including the Flex
 18 Trim Entities and Tahus. The court's order was set forth in its Minutes dated May 11, 2007 (the
 19 "May 11 Minutes"). On May 22, 2007, the court signed its written Order Appointing Receiver
 20 and Directing Certain Other Matters (the "May 22 Order"). Copies of the May 11 Minutes and
 21 the May 22 Order are attached as Exhibits "B" and "C", respectively, to the Murphy
 22 Declaration.¹

23 C. The Assignments for the Benefit of Creditors.

24 At some point prior to the entry of the May 22 Order, and apparently on or about May 21,
 25 2007, Mr. Jones, purporting to act as the manager and sole owner of the Flex Trim Entities
 26 and/or Tahus, assigned their assets to CMA, commencing a proceeding that is commonly
 27

28 ¹ Other entities were also included within the scope of the Court's orders.

1 referred to as an "Assignment for the Benefit of Creditors" for each of Flex Trim California, Inc.
 2 and Flex Trim North Carolina, Inc. The parallel proceedings were commenced with documents
 3 standard in such proceedings, known as "assignments," and the assignments for the Flex Trim
 4 Entities are attached as Exhibits "F" and "G", respectively, to the Joncich Declaration.

5 Immediately subsequent to his appointment, the Receiver learned about the assignments.
 6 The Receiver immediately informed counsel for Mrs. Jones and Mr. Jones, by letter, of the fact
 7 of the assignments. A copy of the Receiver's letter to counsel dated May 24, 2007, is attached as
 8 Exhibit "D" to the Murphy Declaration.

9 Because, by all accounts, the Flex Trim Entities were in financial distress, and in that Mr.
 10 Jones had initiated the assignment process, the Receiver decided not to immediately contest the
 11 validity of them.² (See Murphy Declaration, *infra*, at para. 9.) However, the timing of the
 12 assignments is suspicious, at least, and occurred after the May 11, 2007 hearing held by this
 13 court and possibly after Mr. Jones' then-counsel in this proceeding had signed off on the May 22
 14 Order that was ultimately executed by the court. (See Murphy Declaration, *infra*, at para. 9.)

15 D. CMA's Auction Sale and the Receiver's Motion With Respect to It.

16 Consistent with its mandate, as assignee, to liquidate the Flex Trim Entities' assets, CMA
 17 marketed the operating assets of the Flex Trim Entities and ran an auction process with respect to
 18 them. (See Joncich Declaration, *infra*, para. 3.) Three companies posted a \$100,000 deposit
 19 required by CMA, executed preliminary letters of intent that qualified them to bid, and made
 20 minimum bids of \$1,000,000. (See Joncich Declaration, *infra*, para. 3.) These bidders were
 21 HB&G Building Products, Inc., a Delaware corporation ("HB&G"), West End Partners and
 22 Woodgrain Millwork, Inc. ("Woodgrain").

23 An auction amongst the bidders was held on Friday, July 27, 2007, culminating in HB&G
 24 being the winner with a high bid of \$2.2 million. (See Joncich Declaration, *infra*, para. 4.)
 25 Subsequent to the auction, CMA and HB&G negotiated an Asset Purchase Agreement dated
 26 August 20, 2007 (the "APA") between CMA and an affiliate of HB&G which was to hold the

27
 28 2 The costs of the assignments are not insignificant, but the Receiver has not duplicated the efforts of CMA, its
 attorneys and agents. (See Murphy Declaration, *infra*, at para. 9.)

1 purchased assets. On August 23, 2007, on an *ex parte* basis, the Receiver made his *ex parte*
 2 Application by Receiver for Approval of Auction Sale and Related Transactions. After
 3 continuing the hearing to Friday, August 24, 2007, the court approved the Receiver's application
 4 and the sale pursuant to its Order Approving Auction Sale and Related Transactions dated
 5 August 24, 2007 (the "Sale Order"). A copy of the Sale Order is attached to the Murphy
 6 Declaration as Exhibit "E". Both Mr. Jones and Mrs. Jones appeared by counsel at the *ex parte*
 7 hearing and the continued hearing.

8 The sale closed later on August 24, 2007, with CMA receiving net proceeds from the sale
 9 of \$2,064,053.97, after taking into account a "purchase price adjustment" that was made in
 10 accordance with the terms of the APA and the \$100,000 deposit which HB&G had previously
 11 paid. A copy of a closing statement for the sale is attached as Exhibit "H" to the Joncich
 12 Declaration.³

13 E. The Deadline for Filing Claims and the Claims Filed by Creditors.

14 1. *General Creditor Claims*

15 Pursuant to notices sent out after the assignments, CMA provided notice to all
 16 creditors that November 26, 2007 was the last deadline for filing claims in the assignments.
 17 Thereafter, certain creditors filed claims, as listed on Exhibit "I". However, if a creditor did not
 18 file a claim, it is not entitled to be paid anything, regardless of what might otherwise be indicated
 19 on the books of the Flex Trim Entities. Also, in certain cases CMA has determined that although
 20 the creditor filed a claim, the claim should be disallowed, and therefore CMA does not believe
 21 that the claim is valid and CMA does not (and would not, absent the Letter Agreement) pay the
 22 claim (collectively, the "Disallowed Claims").

23 Each of the Receiver, Mrs. Jones, Jose C. Corral, purporting to act on behalf of Alissimo
 24 S.A. de C.V. ("Alissimo"), and Francisco Elorza, purporting to act on behalf of Resinas Laguna,
 25 S.A. de C.V. ("Resinas") filed various claims against the proceeds held by CMA. Not including
 26 these latter claims, and also not including employee claims, discussed below, or the Disallowed

27 ³ Also, and as set forth on Exhibit "I" but not on the closing statement, CMA paid \$50,000 to Woodgrain as a
 28 break-up fee. This amount was authorized to be paid by the Sale Order.

1 Claims, the total of the claims filed against FTC was \$74,666.67, and the total of the claims filed
 2 against FTNC was \$398,732.88. However, R&D Properties, Inc., the landlord of FTNC, has
 3 agreed to reduce its claim from \$336,000 to \$96,000, and therefore the total amount of FTNC
 4 claims (again excluding the claims of the Receiver, Mrs. Jones, Mr. Corral and Mr. Elorza and
 5 Disallowed Claims) is now \$158,732.88.⁴

6 2. *Employee Claims*

7 In addition to claims filed by vendors and other entities which claimed they were
 8 owed funds by FTC and FTNC, employees of the entities are also owed priority claims pursuant
 9 to California Code of Civil Procedure §1204(a)(1) with respect unpaid wages and accrued
 10 vacation and sick pay in the 90 days prior to the assignments. As noted on Exhibit "I", these
 11 "priority" claims are \$7,889.85 for FTC and \$12,521.87 for FTNC, or a total of \$20,411.72. In
 12 addition, CMA has determined that certain of the hourly employees are also owed general
 13 unsecured claims for wages and accrued vacation and sick pay due and owing at the time of the
 14 assignments, which amounts do not constitute priority claims. As noted on Exhibit "I", these
 15 general unsecured claims aggregate \$14,926.27 for FTC and \$28,353.80 for FTNC, or a total of
 16 \$43,280.07.

17 3. *The Claims Purportedly Filed on Behalf of Alissimo and Resinas*

18 As noted above, Mr. Corral and Mr. Elorza filed two claims each with CMA,
 19 purportedly on behalf of Alissimo and Resinas, respectively, as follows: with respect to FTC,
 20 \$98,613.91 (Corral/Alissimo) and \$217,490.53 (Elorza/Resinas), and, with respect to FTNC,
 21 \$195,064.16⁵ (Corral/Alissimo) and \$385,221.21 (Elorza/Resinas). However, by the terms of
 22 the May 22 Order, the Receiver is also the receiver of Alissimo and Resinas. Therefore, any
 23 amounts that CMA would otherwise pay to these entities should be paid to the Receiver.

24
 25
 26 4. As set forth on the accounting, there are seven (7) Disallowed Claims with respect to FTC and six (6) Disallowed
 Claims with respect to FTNC, for a combined total of \$98,934.89. (See Joncich Declaration, Exhibit "I".)

27 5. The claim \$195,064.16 by Corral/Alissimo with respect to FTNC has been proposed to be allowed by CMA in the
 reduced amount of \$152,451.24 to account for a credit due in the amount of \$42,612.92. (See Joncich Declaration,
 infra, para. 11.)

1 The Receiver contends that the Alissimo and Resinas claims may not be valid or entitled
 2 to payment as stated. Moreover, the Receiver contends that each of FTC and FTNC have
 3 valuable claims against Alissimo and Resinas, which claims offset any amounts that would
 4 otherwise be owing. Together, the four Alissimo and Resinsas claims filed total \$853,776.89
 5 (after the adjustment noted in footnote 5). Copies of the Alissimo and Resinas claims are
 6 attached to the Joncich Declaration as Exhibits "K" to "N".

7 4. *The Receiver's Claims and Those Filed by Mrs. Jones*

8 The Receiver filed four claims as to FTC and FTNC as follows, \$907,173.74
 9 against FTC, \$638,619.50 against FTNC and a proof of interest in an unknown amount as to
 10 each entity. The Receiver filed his claims on behalf of amounts owing by FTC and FTNC to
 11 Papa Lion, Inc. ("Papa Lion"). Copies of the Receiver's claims are attached to the Joncich
 12 Declaration as Exhibits "O" to "R".

13 Mrs. Jones also filed claims with CMA, one each as a proof of interest for each of FTC
 14 and FTNC. Copies of the claims filed by Mrs. Jones are attached to the Joncich Declaration as
 15 Exhibits "S" and "T".

16 F. The Payments Made to Professionals and CMA's Fees.

17 CMA's accounting, Exhibit "I", also shows certain payments for "administrative" claims,
 18 i.e., those claims made on account of expenses related to the administration of the assignment
 19 estates. These amounts include, notably, (1) payments paid to CMA as its administrative fee,
 20 \$81,000.00 for FTC and \$25,000.00 for FTNC for a total of \$106,000, or six percent (6%) of the
 21 first \$1 million of the \$2.2 million in sale proceeds, four percent (4%) of the next \$1 million and
 22 three percent (3%) of the amount in excess of \$2 million; (2) payments for attorney's fees and
 23 costs paid to (a) Schulman Hodges & Bastian LLP ("SHB"), attorneys for CMA, in the total
 24 amount of \$102,346.90; (b) Schumaker, Loop & Kendrick, North Carolina counsel to CMA in
 25 the amount of \$15,786.37; and (c) Broker & Associates, the attorney for FTC and FTNC which
 26 Mr. Jones consulted prior to causing the assignments in the amount of \$3,602.60, in connection
 27 with documented the loan Mr. Jones made to CMA; (3) payments for "adjuster services" in the
 28 amount of \$14,736.53; (4) payments to "outside labor," in the amount of \$67,683.37; and (5) a

1 payment to Kibel Green in the amount of \$6,081.56 as a consultant fee for services related to the
 2 sale.⁶

3 CMA's fees were calculated and paid according to the formula set forth above and as
 4 provided by the assignments executed by Mr. Jones. See Exhibits "F" and "G" to the Joncich
 5 Declaration. Most of the SHB's fees were related to advice related to the negotiation and
 6 consummation of the sale to HB&G, and thus SHB's work had a direct impact on the proceeds of
 7 the sale which were received. In the performance of its administration of assets, as assignee,
 8 CMA utilizes the services of adjusters to marshal assets, change locks, pack business records and
 9 provide basic bookkeeping services. CMA advances the expense for adjusters and reimburses its
 10 costs from the liquidation proceeds. The fees for "outside services" were paid to Management
 11 Pro Tem. CMA utilized the services of Management Pro Tem, an independent administrator, to
 12 function as supervisor for the operation of the Flex Trim Entities and the transfer of assets to the
 13 ultimate buyer. (See Joncich Declaration, *infra*, para. 15.)

14 G. The Cash Held by CMA.

15 As set forth on Exhibit "I", currently CMA holds approximately \$1,567,422.64, including
 16 the proceeds of the sale to HB&G net of other amounts paid, including the professional fees
 17 outlined above, and other amounts as set forth therein. In addition, to complete the transactions
 18 outlined herein, CMA will have certain additional costs, which it estimates to be \$40,552.49 (the
 19 "Proposed Reserve"), also as set forth on Exhibit "I". The Proposed Reserve is an estimate,
 20 only, and any amounts not actually spent will also be paid to the Receiver.⁷

21 H. The Litigation Claims CMA May Hold and the Proposed Indemnity.

22 As noted above, the Receiver contends that FTC and FTNC own valuable litigation
 23 claims against various parties, including Alissimo and Resinas. In addition, the Receiver
 24 believes that FTC and FTNC may hold claims (based on various grounds) for breach of duty

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 26 ⁶ Exhibit "I" also shows a payment in the amount of \$87,975.28. This payment was made to remove certain
 27 materials prior to the sale that had to be treated as hazardous waste under California law. (See Joncich Declaration,
 28 *infra*, para. 16.)

⁷ Under the terms of the assignments to CMA, CMA retains all interest earned on the funds it holds. See Exhibits
 "F" and "G" to the Joncich Declaration. Therefore, no interest is shown on Exhibit "I".

1 against Mr. Jones, who was at all times an officer and/or director of each of FTC and FTNC.
 2 The Receiver contends that millions of dollars may have been diverted from FTC and FTNC to
 3 Alissimo and/or Resinas. (See Murphy Declaration, *infra*, para. 11.)

4 In addition to the claims discussed above, CMA may also hold avoidance claims under
 5 California state law or fraudulent transfers claims not related to Alissimo and Resinas. CMA has
 6 one year from the date of the assignments to assert the avoidance claims, but it has yet to make
 7 an investigation into them in light of the Letter Agreement. (See Joncich Declaration, *infra*,
 8 para. 18.)

9 I. The Letter Agreement and the Transactions Contemplated Thereby.

10 The purpose of the Letter Agreement is to provide a mechanism by which CMA can
 11 complete its work on the assignments while permitting any remaining disputes regarding the
 12 funds generated by the sale of the operating assets of the Flex Trim Entities to be resolved in the
 13 context of the marital dissolution action. In addition, should the Letter Agreement be approved
 14 and consummated, it will have the benefit of allowing CMA to pay employee and third party
 15 general unsecured claims in full, and will negate the need for CMA to investigate, let alone file,
 16 preference actions. It will also will help streamline proceedings by eliminating a second layer of
 17 professionals, and it gives the Receiver control of litigation claims which the Receiver believes
 18 to be valuable.

19 If the Letter Agreement is approved, \$63,691.79 in priority and general unsecured
 20 employee claims will be paid, and \$233,399.55 in general unsecured trade claims will be paid by
 21 CMA. Then, after allowance for the Proposed Reserve, \$1,229,778.81 will be paid to the
 22 Receiver to hold pending further order of the court.

23 Because it appears to be most efficient to allow the Receiver, pursuant to the authority
 24 granted to him by the May 22 Order, to pursue or compromise the litigation claims he believes
 25 FTC and FTNC possess, in the Letter Agreement the Receiver and CMA have agreed that CMA
 26 will assign all such claims to the Receiver. However, the Letter Agreement also provides that if,
 27 for some reason, the assignment of claims is determined not to have successfully provided the
 28 Receiver with an appropriate basis to bring suit on the claims, CMA will agree to become a party
 9

1 to litigation to remedy any such standing deficiency. As set forth in the Letter Agreement,
 2 should CMA's assistance be required, the Receiver will pay CMA's costs and attorney's fees, up
 3 to a cap of the total amount of the actual cash paid to the Receiver by CMA. More generally, the
 4 Receiver will also indemnify CMA for any claims against it related to the assignments, also
 5 capped at an amount equal to cash proceeds CMA pays to the Receiver.

6 All-in-all, the Receiver believes that the provisions of the Letter Agreement are
 7 reasonable and appropriate to the current circumstances of this case. By approving the Letter
 8 Agreement and the transactions proposed thereby, the court will allow CMA to finish its work,
 9 and substantial cash proceeds will be paid to the marital estate for disposition in accordance with
 10 the court's further orders.

11 III. DISCUSSION

12 A. The Letter Agreement and the Transactions Contemplated Thereby Should Be Approved.

13 1. *The Legal Standard*

14 Subject to approval of the court, the receiver has discretion to take reasonable
 15 steps to maximize the assets of the receivership estate. (*See, e.g., People v. University of*
 16 *Riverside*, (1973) 35 Cal.App.3d 572, 582; 2 Weil & Brown, *California Practice Guide: Civil*
 17 *Procedure Before Trial* (TRG 2007) ¶ 9:770-771, p.9(II)-514 (receiver can petition for
 18 instructions).) With respect to the proposed disposition of assets by a Receiver, ". . . [T]he
 19 primary function of the court is to manage or dispose of the property in the best manner possible
 20 and for the best interest of the parties concerned." (*Gold v. Gold*, (2003) 114 Cal.App.4th 791,
 21 806.)

22 The Receiver brings this motion consistent with his mandate from this court to
 23 investigate and secure certain alleged marital assets, including FTC and FTNC, now reduced to
 24 the cash proceeds held by CMA, and various unliquidated litigation claims. In addition, CMA
 25 and the Receiver believe that, given the timing of assignments executed by Mr. Jones on the eve
 26 of the entry of the May 22 Order, court approval of payments to creditors by CMA, as
 27 contemplated by the Letter Agreement, is called for in this instance on, at least, a prophylactic
 28 basis. Alternatively, if the court finds that it has no jurisdiction to evaluate any payments by

1 CMA, the Receiver asks the court consider this motion as a request for instructions regarding
 2 whether or not the Receiver should take any action (setting aside whether or not such action
 3 would be successful, a point CMA contests) to attempt to invalidate the assignments to CMA on
 4 the grounds that the May 11 Order stripped Mr. Jones of his authority to make them, while
 5 nonetheless preserving the Sale Order and the transactions closed in accordance therewith.

6 2. *The Terms of the Letter Agreement Should Be Approved*

7 Based on the above, the Receiver asks that terms of the Letter Agreement sale be
 8 approved, to the extent required, as a reasonable exercise of his business judgment in managing
 9 the receivership estate. (*See University of Riverside, supra*, 35 Cal.App.3d at 585. *See also*
 10 *Nulaid Farmers Ass'n v. LaTorre*, (1967) 252 Cal.App.2d 788, 791-793.). The Receiver submits
 11 that it makes sense to pay the "true" third party claimants to the assignments in full, and allow
 12 those disputes related to potential claims by the Receiver on behalf of Papa Lion and the
 13 purported claims from Alissimo and Resinas to be resolved in the context of the marital
 14 dissolution action.

15 Although it may be that the Receiver's claims on behalf of Papa Lion might, in certain
 16 cases, receive a slightly greater distribution than is contemplated under the Letter Agreement,
 17 such a result is speculative, and it is also the case that such claims might be subject to
 18 recharacterization or subordination, reducing or eliminating their value. Moreover, keeping the
 19 assignments open will doubtless lead to additional administrative fees by CMA and its attorneys,
 20 as well as additional cost to the Receiver. There is no need for the marital estate to bear these
 21 burdens. The savings that will result more than offsets any potential that the Receiver might
 22 receive slightly more in certain other scenarios. (*See Murphy Declaration, infra*, para. 14.)

23 B. The Assignment of Claims and the Proposed Indemnity Are Reasonable.

24 The Receiver believes that the cost and attorney's fee reimbursement provision is
 25 reasonable in light of the fact that should CMA be required to participate in later litigation, it is
 26 most likely that its costs will be nominal because the Receiver will be taking the "laboring oar"
 27 in such matters. (*See Murphy Declaration, infra*, para. 15.) Also, with respect to the payment by
 28 CMA of funds to the Receiver, as set forth in the Letter Agreement, the Receiver has agreed to

1 indemnify CMA for any costs and attorney's fees it may incur with respect to these matters
 2 should it be sued. (*See* Murphy Declaration, Exhibit "A".) Again, however, the indemnity is
 3 limited to the amount of cash actually paid by CMA to the Receiver. As thus limited, the
 4 indemnity essentially puts CMA in the same position it is now. To the extent any claims are
 5 asserted against the funds it holds, once the funds are in the hands of the Receiver, those funds
 6 are still available to satisfy those claims. In light of the circumscribed nature of the proposed
 7 indemnity obligation, and the very real benefit of ending CMA's participation in these matters,
 8 the Receiver believes that the indemnity provision in the Letter Agreement is reasonable and
 9 should be approved. (*See* Murphy Declaration, *infra*, para. 15.)

10 **IV. CONCLUSION**

11 Based on the foregoing, the Receiver asks that the court:

- 12 1. Approve the terms of the Letter Agreement and the transactions contemplated
thereby;
- 14 2. Approve, to the extent required, CMA's accounting of the assignments of the
Flex Trim Entities, including CMA's payments of (a) attorney's fees and costs; (b) outside agent
fees; and (c) CMA's administrative fees, as permitted by California law;
- 17 3. Approve the payment in full of all priority and general unsecured employee
claims, in the total amount of \$63,691.79;
- 19 4. Approve the payment in full of all "undisputed" general unsecured creditors
which have filed claims and which have not been determined by CMA to be Disallowed Claims,
in the amount of \$233,399.55;
- 22 5. Approve the assignment by CMA to the Receiver of certain litigation claims
CMA may hold by reason of the assignments;
- 24 6. Approve, after the deduction of a reserve for certain items in the amount of
\$40,552.49, the payment of all remaining funds held by CMA to the Receiver to be held in a
segregated account pending further order of the court;
- 27 7. Approve the indemnity by the Receiver of CMA, ~~in certain instances, and up to a~~
specified cap, as set forth in the Letter Agreement; and

1 8. Make such further orders as are just and proper.

Respectfully submitted,

Dated: December 13, 2007

ANDREWS KURTH LLP

By: C. John M. Wilkinson

C. John M. Melissinos
Terry L. Higham
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EXHIBIT A PAGE 17

1 **DECLARATION OF DENNIS M. MURPHY IN SUPPORT OF RECEIVER'S MOTION**
 2 **FOR APPROVAL OF LETTER AGREEMENT WITH CMA, ETC.**

3 I, DENNIS M. MURPHY, DECLARE AS FOLLOWS.

4 1. I am the Court-Appointed Receiver ("Receiver") in this matter. I was appointed
 5 Receiver by written order of this court entered on May 22, 2007. I have personal knowledge of
 6 the facts stated below, or have gained knowledge of them from pleadings and other documents I
 7 have obtained and reviewed or from the professionals employed to assist me herein, and, if
 8 called as a witness, I could and would testify competently thereto.

9 2. Attached as Exhibit "A" hereto and incorporated herein by this reference is a true
 10 and correct copy of a letter agreement dated November 21, 2007 (the "Letter Agreement")
 11 between myself and Credit Managers Association of California, a California corporation, doing
 12 business as CMA Business Credit Services ("CMA").

13 3. Starting in the late 1980's, Petitioner Allen A Jones built a construction supply
 14 business which employed proprietary technology and know-how to make and sell custom curved
 15 moldings made of resin (essentially, a specialized type of plastic) to the construction industry,
 16 including especially the residential home building industry. Ultimately, the business operated in
 17 California and the Southeast United States, through Flex Trim California, Inc. ("FTC") and Flex
 18 Trim North Carolina, Inc. ("FTNC", and, collectively with FTC, the "Flex Trim Entities").

19 4. It is undisputed (for all purposes, I believe) that: (a) FTC is 100% owned by Mr.
 20 Jones, and (b) FTNC is 100% owned by Tahus, LLC, a Nevada limited liability company
 21 ("Tahus"), of which Mr. Jones is the sole member. Thus, it is undisputed that the stock of, or the
 22 beneficial interests in, the Flex Trim Entities is a marital asset subject to the jurisdiction of this
 23 court.

24 5. On April 3, 2002, Mr. Jones commenced the instant action. After almost five
 25 years of proceedings, and frustrated with what she asserted to be the obfuscation and failure to
 26 fully inform the court about the scope of his business affairs, on April 5, 2007, Respondent Mary
 27 Kay Jones moved for the appointment of a receiver over certain entities in which Mr. Jones had a
 28 partial or complete interest. In conjunction with her motion, Mrs. Jones submitted three highly

1 detailed declarations, including numerous supporting exhibits, namely: (1) the Declaration of
 2 Mary Kay Jones; (2) the Declaration of Richard A. Granowitz; and (3) the Declaration of
 3 Charlotte Reith. In further support for her motion, on May 10, 2007, Mrs. Jones filed the
 4 Supplemental Declaration of Richard A. Granowitz and the Supplemental Declaration of
 5 Charlotte K. Reith, CPA.

6 6. On May 11, 2007, after considering the evidence put forward by Mrs. Jones, and
 7 the opposition thereto filed by Mr. Jones, which included his Responsive Declaration to OSC or
 8 Notice of Motion, the Declaration of Allen A. Jones and the Declaration of Marvin M. Reiter,
 9 CPA, the court appointed the Receiver with power over a number of entities, including the Flex
 10 Trim Entities and Tahuus. The court's order was set forth in its Minutes dated May 11, 2007 (the
 11 "May 11 Minutes"). On May 22, 2007, the court signed its written Order Appointing Receiver
 12 and Directing Certain Other Matters (the "May 22 Order"). Attached respectively as Exhibits
 13 "B" and "C" hereto and incorporated herein by this reference are true and correct copies of the
 14 May 11 Minutes and the May 22 Order.

15 7. At some point prior to the entry of the May 22 Order, and apparently on or about
 16 May 21, 2007, Mr. Jones, purporting to act as the manager and sole owner of the Flex Trim
 17 Entities and/or Tahuus, assigned their assets to CMA, commencing a proceeding that is commonly
 18 referred to as an "Assignment for the Benefit of Creditors" for each of FTC and FTNC.

19 8. Immediately subsequent to my appointment, I learned about the assignments. I
 20 immediately informed counsel for Mrs. Jones and Mr. Jones, by letter, of the fact of the
 21 assignments. Attached as Exhibit "D" hereto and incorporated herein by this reference is a true
 22 and correct copy of my letter to counsel dated May 24, 2007.

23 9. Because, by all accounts, the Flex Trim Entities were in financial distress, and in
 24 that Mr. Jones had initiated the assignment process, I decided not to immediately contest the
 25 validity of them. However, the timing of the assignments is suspicious, at least, and occurred
 26 after the May 11, 2007 hearing held by this court and possibly after Mr. Jones' then-counsel in
 27 this proceeding had signed off on the May 22 Order that was ultimately executed by the court.
 28

1 The costs of the assignments are not insignificant, but I have not duplicated the efforts of CMA,
 2 its attorneys and agents.

3 10. On August 23, 2007, on an *ex parte* basis, I made my *ex parte* Application by
 4 Receiver for Approval of Auction Sale and Related Transactions. After continuing the hearing
 5 to Friday, August 24, 2007, the court approved my application and the sale pursuant to its Order
 6 Approving Auction Sale and Related Transactions dated August 24, 2007 (the "Sale Order").
 7 Attached as Exhibit "E" hereto and incorporated herein by this reference is a true and correct
 8 copy of the Sale Order. Both Mr. Jones and Mrs. Jones appeared by counsel at the *ex parte*
 9 hearing and the continued hearing.

10 11. I contend that FTC and FTNC own valuable litigation claims against various
 11 parties, including Alissimo S.A. de C.V. ("Alissimo") and Resinas Laguna S.A. de C.V.
 12 ("Resinas"). In addition, I believe that FTC and FTNC may hold claims (based on various
 13 grounds) for breach of duty against Mr. Jones, who was at all times an officer and/or director of
 14 each of FTC and FTNC. I also contend that millions of dollars may have been diverted from
 15 FTC and FTNC to Alissimo and/or Resinas.

16 12. The purpose of the Letter Agreement is to provide a mechanism by which CMA
 17 can complete its work on the assignments while permitting any remaining disputes regarding the
 18 funds generated by the sale of the operating assets of the Flex Trim Entities to be resolved in the
 19 context of the marital dissolution action. In addition, should the Letter Agreement be approved
 20 and consummated, it will have the benefit of allowing CMA to pay employee and third party
 21 general unsecured claims in full, and will negate the need for CMA to investigate, let alone file,
 22 preference actions. It will also will help streamline proceedings by eliminating a second layer of
 23 professionals, and it gives me control of litigation claims which I believe to be valuable.

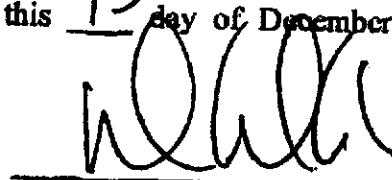
24 13. All-in-all, I believe that the provisions of the Letter Agreement are reasonable and
 25 appropriate to the current circumstances of this case. By approving the Letter Agreement and the
 26 transactions proposed thereby, the court will allow CMA to finish its work, and substantial cash
 27 proceeds will be paid to the marital estate for disposition in accordance with the court's further
 28 orders. I submit that it makes sense to pay the "true" third party claimants to the assignments in

1 full, and allow those disputes related to potential claims by me on behalf of Papa Lion, Inc.
 2 ("Papa Lion") and the purported claims from Alissimo and Resinas to be resolved in the context
 3 of the marital dissolution action.

4 14. Although it may be that my claims on behalf of Papa Lion might, in certain cases,
 5 receive a slightly greater distribution than is contemplated under the Letter Agreement, such a
 6 result is speculative, and it is also the case that such claims might be subject to recharacterization
 7 or subordination, reducing or eliminating their value. Moreover, keeping the assignments open
 8 will doubtless lead to additional administrative fees by CMA and its attorneys, as well as
 9 additional cost to me. There is no need for the marital estate to bear these burdens. The savings
 10 that will result more than offsets any potential that I might receive slightly more in certain other
 11 scenarios.

12 15. I believe that the cost and attorney's fee reimbursement provision contained in the
 13 Letter Agreement is reasonable in light of the fact that should CMA be required to participate in
 14 later litigation, it is most likely that its costs will be nominal because I will be taking the
 15 "laboring oar" in such matters. Also, with respect to the payment by CMA of funds to me, as set
 16 forth in the Letter Agreement, I have agreed to indemnify CMA for any costs and attorney's fees
 17 it may incur with respect to these matters should it be sued. Again, however, the indemnity is
 18 limited to the amount of cash actually paid to me. As thus limited, the indemnity essentially puts
 19 CMA in the same position it is now. To the extent any claims are asserted against the funds it
 20 holds, once the funds are in my hands, those funds are still available to satisfy those claims. In
 21 light of the circumscribed nature of the proposed indemnity obligation, and the very real benefit
 22 of ending CMA's participation in these matters, I believe that the indemnity provision in the
 23 Letter Agreement is reasonable and should be approved.

24 I declare under the penalty of perjury of the laws of the State of California that the
 25 foregoing is true and correct. Executed this 13 day of December, 2007, at Pasadena,
 26 California.



DENNIS M. MURPHY

1 **DECLARATION OF MICHAEL L. JONCICH IN SUPPORT OF RECEIVER'S**
 2 **MOTION FOR APPROVAL OF LETTER AGREEMENT WITH CMA, ETC.**

3 I, MICHAEL L. JONCICH, DECLARE AS FOLLOWS.

4 1. I am an employee of Credit Managers Association of California, a California
 5 corporation, doing business as CMA Business Credit Services ("CMA") assignee of Flex Trim
 6 California, Inc. ("FTC") and Flex Trim North Carolina, Inc. ("FTNC", and, collectively, the
 7 "Flex Trim Entities"). I have personal knowledge of the facts stated below, or have gained
 8 knowledge of them from documents I have obtained and reviewed or from the professionals
 9 employed to assist me herein, and, if called as a witness, I could and would testify competently
 10 thereto.

11 2. On May 21, 2007, Petitioner Allen A. Jones, purporting to act as the manager and
 12 owner of fifty percent (50%) or more of the shares of FTC and the manager of Tahus, LLC, a
 13 Nevada limited liability company ("Tahus"), the owner of fifty percent (50%) or more of the
 14 shares of FTNC, assigned their assets to CMA, commencing what is commonly referred to as an
 15 "Assignment for the Benefit of Creditors" for each of FTC and FTNC. The parallel proceedings
 16 were commenced with documents standard in such matters, known as "assignments." Attached
 17 respectively as Exhibits "F" and "G" hereto and incorporated herein by this reference are true
 18 and correct copies of the assignments made by Mr. Jones for FTC and FTNC.

19 3. Consistent with its mandate, as assignee, to liquidate the Flex Trim Entities'
 20 assets, CMA marketed the operating assets of the Flex Trim Entities and ran an auction process
 21 with respect to them. Three companies posted a \$100,000 deposit required by CMA, executed
 22 preliminary letters of intent that qualified them to bid, and made minimum bids of \$1,000,000.
 23 These bidders were HB&G Building Products, Inc., a Delaware corporation ("HB&G"), West
 24 End Partners and Woodgrain Millwork, Inc. ("Woodgrain").

25 4. An auction amongst the bidders was held on Friday, July 27, 2007, culminating in
 26 HB&G being the winner with a high bid of \$2.2 million. Subsequent to the auction, CMA and
 27 HB&G negotiated an Asset Purchase Agreement dated August 20, 2007 (the "APA") between
 28 CMA and an affiliate of HB&G which was to hold the purchased assets.

1 5. The sale closed later on August 24, 2007, with CMA receiving net proceeds from
 2 the sale of \$2,064,053.97, after taking into account a "purchase price adjustment" that was made
 3 in accordance with the terms of the APA and the \$100,000 deposit which HB&G had previously
 4 paid. Attached as Exhibit "H" hereto and incorporated herein by this reference is a true and
 5 correct copy of a closing statement for the sale. Also, CMA paid \$50,000 to Woodgrain as a
 6 break-up fee.

7 6. Attached as Exhibit "I" hereto and incorporated herein by this reference is a true
 8 and correct copy CMA's accounting to date of the assignments of the Flex Trim Entities,
 9 including CMA's payments of (a) attorney's fees and costs; (b) outside agent fees; and
 10 (c) CMA's administrative fees, as permitted by California law.

11 7. Pursuant to notices sent out after the assignments, CMA provided notice to all
 12 creditors that November 26, 2007 was the last deadline for filing claims in the assignments.
 13 Thereafter, certain creditors filed claims, as listed on Exhibit "I". However, if a creditor did not
 14 file a claim, it is not entitled to be paid anything, regardless of what might otherwise be indicated
 15 on the books of the Flex Trim Entities. Also, in certain cases CMA has determined that although
 16 the creditor filed a claim, the claim should be disallowed, and therefore CMA does not believe
 17 that the claim is valid and CMA does not (and would not, absent the Letter Agreement) pay the
 18 claim (collectively, the "Disallowed Claims").

19 8. Each of the Receiver, Respondent Mary Kay Jones, Jose C. Corral, purporting to
 20 act on behalf of Alissimo S.A. de C.V. ("Alissimo"), and Francisco Elorza, purporting to act on
 21 behalf of Resinas Laguna, S.A. de C.V. ("Resinas") filed various claims against the proceeds
 22 held by CMA. Not including these latter claims, and also not including employee claims,
 23 discussed below, or the Disallowed Claims, the total of the claims filed against FTC was
 24 \$74,666.67, and the total of the claims filed against FTNC was \$398,732.88. However, R&D
 25 Properties, Inc., the landlord of FTNC, has agreed to reduce its claim from \$336,000 to \$96,000,
 26 and therefore the total amount of FTNC claims (again excluding the claims of the Receiver, Mrs.
 27 Jones, Mr. Corral and Mr. Elorza and Disallowed Claims) is now \$158,732.88.

28 ///

1 9. In addition to claims filed by vendors and other entities which claimed they were
 2 owed funds by FTC and FTNC, employees of the entities are also owed priority claims pursuant
 3 to California Code of Civil Procedure §1204(a)(1) with respect unpaid wages and accrued
 4 vacation and sick pay in the 90 days prior to the assignments. As noted on Exhibit "J", these
 5 "priority" claims are \$7,889.85 for FTC and \$12,521.87 for FTNC, or a total of **\$20,411.72**. In
 6 addition, CMA has determined that certain of the hourly employees are also owed general
 7 unsecured claims for wages and accrued vacation and sick pay due and owing at the time of the
 8 assignments, which amounts do not constitute priority claims. As noted on Exhibit "J", these
 9 general unsecured claims aggregate \$14,926.27 for FTC and \$28,353.80 for FTNC, or a total of
 10 **\$43,280.07**.

11 10. Attached as Exhibit "J" hereto and incorporated herein by this reference is a true
 12 and correct copy of a spreadsheet showing the calculation of the amounts owing to employees.
 13 CMA filed claims on behalf of the employees, and the amounts to be paid include the amount of
 14 "employer" taxes that will be due in conjunction with the payments. I believe it is critical to pay
 15 the employees before year end both to provide them with extra cash prior to the holidays and to
 16 save costs by obviating the need to generate the additional W-2s that would be required if
 17 payments were made in 2008.

18 11. Mr. Corral and Mr. Elorza filed two claims each with CMA, purportedly on
 19 behalf of Alissimo and Resinas, respectively, as follows: with respect to FTC, \$98,613.91
 20 (Corral/Alissimo) and \$217,490.53 (Elorza/Resinas), and, with respect to FTNC, \$195,064.16
 21 (Corral/Alissimo) and \$385,221.21 (Elorza/Resinas). The claim \$195,064.16 by Corral/Alissimo
 22 with respect to FTNC has been proposed to be allowed by CMA in the reduced amount of
 23 \$152,451.24 to account for a credit due in the amount of \$42,612.92. After that adjustment, the
 24 four Alissimo and Resinsas claims total \$853,776.89. Attached respectively as Exhibits "K" to
 25 "N" hereto and incorporated herein by this reference are a true and correct copies of the Alissimo
 26 and Resinas claims.

27 12. The Receiver filed four claims as to FTC and FTNC as follows, \$907,173.74
 28 against FTC, \$638,619.50 against FTNC and a proof of interest in an unknown amount as to

1 each entity. The Receiver filed his claims on behalf of amounts purportedly owing by FTC and
 2 FTNC to Papa Lion, Inc. ("Papa Lion"). Attached respectively as Exhibits "O" to "R" hereto
 3 and incorporated herein by this reference are a true and correct copies of the claims filed by the
 4 Receiver.

5 13. Mrs. Jones filed claims with CMA, one each as a proof of interest for each of FTC
 6 and FTNC. Attached respectively as Exhibits "S" and "T" hereto and incorporated herein by this
 7 reference are a true and correct copies of the claims filed by Mrs. Jones.

8 14. CMA's accounting, Exhibit "I", shows certain payments for "administrative"
 9 claims, *i.e.*, those claims made on account of expenses related to the administration of the
 10 assignment estates. These amounts include, notably, (1) payments paid to CMA as its
 11 administrative fee, \$81,000.00 for FTC and \$25,000.00 for FTNC for a total of \$106,000, or six
 12 percent (6%) of the first \$1 million of the \$2.2 million in sale proceeds, four percent (4%) of the
 13 next \$1 million and three percent (3%) of the amount in excess of \$2 million; (2) payments for
 14 attorney's fees and costs paid to (a) Schulman Hodges & Bastian LLP ("SHB"), attorneys for
 15 CMA, in the total amount of \$102,346.90; (b) Schumaker, Loop & Kendrick, North Carolina
 16 counsel to CMA in the amount of \$15,786.37; and (c) Broker & Associates, the attorney for FTC
 17 and FTNC which Mr. Jones consulted prior to causing the assignments in the amount of
 18 \$3,602.60, in connection with documented the loan Mr. Jones made to CMA; (3) payments for
 19 "adjuster services" in the amount of \$14,736.53; (4) payments to "outside labor," in the amount
 20 of \$67,683.37; and (5) a payment to Kibel Green in the amount of \$6,081.56 as a consultant fee
 21 for services related to the sale.

22 15. CMA's fees were calculated and paid according to the formula set forth above
 23 and as provided by the assignments executed by Mr. Jones. Most of the SHB's fees were related
 24 to advice related to the negotiation and consummation of the sale to HB&G, and thus SHB's
 25 work had a direct impact on the proceeds of the sale which were received. In the performance of
 26 its administration of assets, as assignee, CMA utilizes the services of adjusters to marshal assets,
 27 change locks, pack business records and provide basic bookkeeping services. CMA advances
 28 the expense for adjusters and reimburses its costs from the liquidation proceeds. The fees for
 21

EXHIBIT A PAGE 25

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF RECEIVER'S MOTION
FOR APPROVAL OF LETTER AGREEMENT WITH CMA, ETC.**

1 "outside services" were paid to Management Pro Tem. CMA utilized the services of
 2 Management Pro Tem, an independent administrator, to function as supervisor for the operation
 3 of the Flex Trim Entities and the transfer of assets to the ultimate buyer.

4 16. Exhibit "I" also shows a payment in the amount of \$87,975.28. This payment
 5 was made to remove certain materials prior to the sale that had to be treated as hazardous waste
 6 under California law.

7 17. As set forth on Exhibit "I", currently CMA holds approximately \$1,567,422.64,
 8 including the proceeds of the sale to HB&G net of other amounts paid, including the professional
 9 fees and other amounts as set forth therein. In addition, to complete the transactions outlined in
 10 the Letter Agreement, CMA will have certain additional costs, which it estimates to be
 11 \$40,552.49 (the "Proposed Reserve"), also as set forth on Exhibit "I". The Proposed Reserve is
 12 an estimate, only, and any amounts not actually spent will also be paid to the Receiver.

13 18. In addition to the claims discussed above, CMA may also hold avoidance claims
 14 under California state law or claims for recovery of fraudulent transfers not related to Alissimo
 15 and Resinas. CMA has one year from the date of the assignments to assert the avoidance claims,
 16 but it has yet to make an investigation into them in light of the Letter Agreement.

17 I declare under the penalty of perjury of the laws of the State of California that the
 18 foregoing is true and correct. Executed this 13th day of December, 2007, at Burbank,
 19 California.

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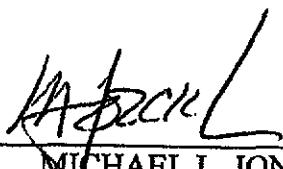

 MICHAEL L. JONCICH

 EXHIBIT A PAGE 26

EXHIBIT “B”

[Home](#)
[Pending Hearings](#)

[Complaints/Parties](#)
[Case Report](#)

[Actions](#)

[Minutes](#)

Action: (Choose)

COURT TRIAL -- ESTIMATED TRIAL LENGTH HRS.
05/11/2007 - 8:30 AM DEPT. S14

COMMISSIONER MICHAEL J. TORCHIA
 CLERK: JOHN FILES
 DEONNA FINAZZO
 BAILIFF: PAUL A. BARRIE

APPEARANCES:

ATTORNEY J. NOLAN PRESENT FOR PLAINTIFF/PETITIONER.
 ATTORNEY R. GRANOWITZ PRESENT FOR DEFENDANT/RESPONDENT.

PROCEEDINGS:

SETTLEMENT CONFERENCE HELD.

THE COURT APPOINTS DENNIS MURPHY AS TEMPORARY RECEIVER OF THE BUSINESS OF THE PETITIONER. MR MURPHY TO SUBMIT A REPORT TO COUNSEL AND THE COURT IN 90 DAYS. MR MURPHYS FEES ARE TO BE NO MORE THAN \$200 PER HOUR.

THE PARTIES ACCOUNTANTS MAY CONSULT WITH THE RECEIVER. COUNSEL AND PARTIES ARE NOT TO CONSULT RECEIVER UNLESS REQUESTED BY THE RECEIVER.

COURT AUTHORIZES \$35,000 BE RELEASED FROM THE BUSINESS PROCEEDS TO RESPONDENTS COUNSEL FOR ATTORNEY FEES WITHOUT PREJUDICE.

ALL SUPPORT ORDERS ARE TO REMAIN IN FULL FORCE AND EFFECT AND ARE TO BE PAID FROM THE BUSINESSES BY THE RECEIVER.

REZ-LINE, CIRCLE TRIM MATERIALS, FLEX TRIM NORTH CAROLINA, PAPA LION, FLEX TRIM CALIFORNIA, I-TRIM, HYDRO-FOG, JONESFOAM, ALIASSIMO, MOLDFLEX, RESINAS LUGUNA, SANDSTONE, MOUNT CREEK VENTURES ARE JOINED TO THIS PROCEEDING.

COURT AND COUNSEL DISCUSS VARIOUS INTERLINEATIONS TO PETITIONERS PROPOSED ORDER. COUNSEL TO REPARSE FORMAL ORDER.

12:00

THOMAS LYNTEROPoulos IS SWORN AND TESTIFIES AS WITNESS FOR RESPONDENT.
 12:15

WITNESS THOMAS LYNTEROPoulos EXCUSED.

HEARING RE: MANDATORY SETTLEMENT CONFERENCE SET FOR 09/20/07 AT 08:30 IN DEPARTMENT S14.
 ACTION - COMPLETE

PREVIOUS MINUTES PRINTED

== MINUTE ORDER END ==

EXHIBIT “C”

May 23 2007 2:49PM GWW LAW

9098830544

p. 2

18-11-2007 01:12AM From-GRESHAM SAVAGE NOLAN TILDEN LLP 1818842160 T-216 P-002/007 F-716

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FILED -Central District
SUPERIOR COURT
SAN BERNARDINO COUNTY

MAY 22 2007

By 
Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

ALLEN A. JONES,

CASE NO. SBF99 64717

Petitioner,

ORDER APPOINTING RECEIVER AND
DIRECTING CERTAIN OTHER
MATTERS

vs.

MARY KAY JONES,

Respondent.

The Order to Show Cause application of Respondent, MARY KAY JONES, seeking certain orders and appointments came on regularly for hearing on May 11, 2007 with Petitioner, ALLEN A. JONES, being present in court, represented by his counsel of record, Gresham Savage Nolan and Tilden by John C. Nolan, and Respondent, MARY KAY JONES, being present in court, represented by her counsel of record, Granowitz, White and Weber, by Richard

A. Granowitz, and counsel for the parties having reviewed and discussed said application in detail with the Court, in chambers; and the Court having reviewed all of the pleadings, declarations and exhibits filed herein by both parties:

(1)

(1)

(1)

(1)

-1-

ORDER APPOINTING RECEIVER AND DIRECTING CERTAIN OTHER MATTERS

EXHIBIT C PAGE 28

Exh. C - Page 5

May 23 2007 2:49PM GWL LAW

9098890544

P. 3

16-21-2007 03:42pm From:GRAHAM SAVAGE NOLAN TILDEN LLP

0816812100

T-208 P.003/007 F-718

1 IT IS HEREBY ORDERED AS FOLLOWS:

2 1. There are joined to these proceedings the following entities:

- 3 a. Rez-Line, Incorporated;
- 4 b. Circle Trim Materials, Inc.;
- 5 c. Flex Trim North Carolina, Inc.;
- 6 d. Papa Lion, Inc.;
- 7 e. Flex Trim California, Inc.;
- 8 f. I-Trim;
- 9 g. Hydro Fog, Inc.;
- 10 h. JonesLoam;
- 11 i. Trim Flex of California, Inc.;
- 12 j. Tahus, LLC;
- 13 k. Aliissimo S.A. de C.V.;
- 14 l. Moldflex S.A. de C.V.;
- 15 m. Mountcreek Ventures, Corp.;
- 16 n. Resinas Laguna S.A. do C.V.;
- 17 o. Carter Millwork, Inc.; and,
- 18 p. Sandstone, LLC;

19 all of the foregoing joined parties will hereinafter be individually and collectively
 20 referred to as "the Entities".

21 2. Chicago Title is directed to produce to Respondent's attorney a copy of its file
 22 regarding Escrow Number 27030727-62, relating to real property located at 660 East Mariposa
 23 Drive, Redlands, California.

24 3. Petitioner is enjoined and restrained from removing any information from any
 25 business in which he has a community or separate interest including, but not limited, to all
 26 books, records and information on any computers thereof.

27 4. Dennis M. Murphy is appointed temporary receiver of each of "the Entities" and
 28 their subsidiaries and affiliates, with full powers of an equity receiver, including (but not limited

- 2 -

ORDER APPOINTING RECEIVER AND DIRECTING CERTAIN OTHER MATTERS

EXHIBIT C PAGE 29

Exh. C - Page 6

May 23 2007 2:49PM GWL LAW

9098890544

p. 4

05-23-2007 10:11AM FIRM-GREYHORN SAVAGE NOLAN TILDEN LLP 0518842100 T-105 P.004/007 P-716

1 to) full power over all funds, assets, collateral, premise (whether owned, leased, occupied or
 2 otherwise controlled), choses in actions, books, records, papers, and other real or personal
 3 property, including notes, deeds of trust, and other interest in real property belonging to,
 4 managed by, or in the possession or control of the Entities, and any of their subsidiaries and
 5 affiliates. Mr. Murphy is immediately authorized, empowered, and directed to:

- 6 A. Access and to take custody and control of all funds, assets, collateral, premises
 7 (whether owned, leased, occupied, or otherwise controlled), choses in action,
 8 books, records, papers, and other real property including notes, deeds of trust, and
 9 other interest in real property of or managed by the Entities and their subsidiaries
 10 and affiliates, with full power to sue, foreclose, marshal, collect, receive, and take
 11 into possession all such property;
- 12 B. control and be added as the sole authorized signatory for all accounts of the
 13 Entities and their subsidiaries and affiliates, including all accounts over which
 14 their officers, employees or agents, have signatory authority, at any bank, title
 15 company, escrow agent, financial institution, or brokerage firm, which has
 16 possession, custody, or control of any assets or funds of the Entities or which
 17 maintain accounts over which the Entities and/or any of their officers, employees,
 18 or agents have signatory authority;
- 19 C. conduct such investigation as may be necessary to locate and account for all
 20 assets of, or managed by, the Entities and their subsidiaries and affiliates, and to
 21 employ attorneys, accountants, and other person to assist in such investigation;
- 22 D. take such action as is necessary and appropriate to preserve and take control of
 23 and to prevent the dissipation, concealment, or disposition of any assets of, the
 24 Entities and their subsidiaries and affiliates;
- 25 E. make an accounting to this Court of the assets and financial condition of the
 26 Entities and the assets under their management, including all notes, deeds of trust,
 27 and other interest in real property, and to file the accounting with the Court and
 28 deliver copies to all parties by August 15, 2007;

- 3 -

ORDER APPOINTING RECEIVER AND DIRECTING CERTAIN OTHER MATTERS

Exh. C -- Page 7

EXHIBIT	C	PAGE	30
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GREGORY SAVAGE
 NOLAN G. TILDEN
 GREYHORN, SAVAGE,
 NOLAN & TILDEN, LLP
 1000 K Street, N.W.
 Washington, D.C. 20004
 (202) 293-1000

May 23 2007 2:49PM GWL LAW

9098890544

p. 5

05-21-2007 09:41AM From-GRESHAM SAVAGE "NOLAN TILDEN LLP" 0510042180 T-206 P.001/007 F-716

- 1 F. make such payments and disbursements from the funds and assets taken into
 2 custody, control and possession or thereafter received by him, and to incur, or
 3 authorize the making of such agreements as may be necessary and advisable in
 4 discharging his duties as temporary receiver;
- 5 G. access, monitor, and review all mail (including email) of the Entities in order to
 6 review such mail which he deems relevant to the business of these companies, and
 7 the discharging of his duties as receiver;
- 8 H. exercise all of the lawful powers of the Entities and their officers, directors,
 9 employees, representatives, or persons who exercise similar powers and perform
 10 similar duties.

11 3. Petitioner shall, within five court days of the date of this Order prepare and
 12 deliver to said Receiver a detailed schedule of all the Entities' assets, including all real and
 13 personal property exceeding \$5,000.00 in value, and all bank, securities, futures, and other
 14 accounts identified by institution, branch address, and account number. The accountings shall
 15 include a description of the source(s) of all such assets. Such accounts shall be filed with the
 16 Court and copies shall also be delivered to Respondent's counsel.

17 6. Except as otherwise ordered by this Court, both Petitioner and Respondent, the
 18 Entities, and their officers, agents, servants, employees, attorneys, subsidiaries and affiliates, and
 19 those persons in active concert or participation with any of them, who receive actual notice of
 20 this Order, by personal service or otherwise, are temporarily restrained from directly or
 21 indirectly, destroying, mutilating, concealing, transferring, altering, or otherwise disposing of, in
 22 any manner, any documents, including all books, records, computer programs, computer files,
 23 computer printouts, correspondence, memoranda, brochures, or any other documents of any kind
 24 in their possession, custody, or control, however created, produced, or stored whether manually
 25 or electronically stored pertaining to any of the Entities.

26 7. That the Entities, and their subsidiaries and affiliates, and their officers, agents,
 27 servants, employees, and attorneys, and any other persons who are in custody, possession, or
 28 control of any assets, collateral, books, records, papers, notes, deeds of trust, or other interests in

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1 real property, or other property of, or managed by the Entities shall forthwith give access to and
 2 control of such property to said temporary receiver.

3 8. No counsel for either party is to have any unilateral contact with the temporary
 4 receiver; however, the accountants for either party may do so, but no such contact shall be
 5 deemed to be a privileged communication.

6 9. The temporary receiver and anyone working on his behalf shall bill no more than
 7 \$190.00 collectively or in total average per hour for services performed hereunder.

8 10. The temporary receiver is to make payment to Respondent of \$12,150.00 per
 9 month from the Entities as replacement for the spousal and child support previously in place in
 10 this proceeding.

11 11. A hearing on the Report of the temporary receiver will be held on September 20,
 12 2007, at 8:30 a.m. in Department S-14.

13 12. Either party may object to the Report or any fee charged by the temporary
 14 receiver.

15 13. Payment of \$35,000.00 is to be made to Respondent's counsel from the funds of
 16 the Entities by June 11, 2007, said sum to be as attorneys fees and/or costs, with the Court
 17 reserving the right to re-characterize said payment at a later time.

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.5.

ORDER APPOINTING RECEIVER AND DIRECTING CERTAIN OTHER MATTERS

GRASSHAW SAVAGE
 NOLAN & TILDEN
 A Professional Corporation
 1000 Peachtree Street, Suite 2000
 Atlanta, Georgia 30309-3700
 (404) 572-0000

ITEMS

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1 14. Nothing herein contained shall be deemed in any manner to be an admission or
 2 acknowledgement by Petitioner that any of the Entities are community property, or that they are
 3 controlled by either Party.

4 Dated: 5-22 20075 *H. H. Tilden*
6 JUDGE OF THE SUPERIOR COURT

7 8 APPROVED AS TO FORM AND CONTENT:

9 10 Dated: May 21, 200711 ORESHAM SAVAGE NOLAN & TILDEN,
12 A Professional Corporation13 By: John C. Nolan
14 John C. Nolan
15 Attorneys for Petitioner
16 ALLEN A. JONES17 15 Dated: May 21, 2007

18 16 ORANOWITZ, WHITE AND WEBER

19 17 By: Richard A. Granowitz
20 21 Richard A. Granowitz
21 22 Attorneys for Respondent
22 MARY KAY JONES23 23 THE DOCUMENT TO WHICH THIS CERTIFICATION IS
24 24 ATTACHED IS A FULL, TRUE AND CORRECT COPY OF
25 25 THE ORIGINAL ON FILE AND OF RECORD IN MY OFFICE.26 26 ATTEST: MAY 22, 200727 27 Clerk of the Superior Court of the State of
28 28 California, In and for the County of
San Bernardino.29 30 By: J. M. H. Deputy

31 6.

32 33 ORDER APPOINTING RECEIVER AND DIRECTING CERTAIN OTHER MATTERS

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GRESHAM SAVAGE
NOLAN & TILDEN
A Professional Corporation
1000 University Street, Suite 1000
Seattle, WA 98101-3143
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